

Assembly Bill No. 681

Passed the Assembly July 20, 1998

Chief Clerk of the Assembly

Passed the Senate July 9, 1998

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to add Sections 25297.15, 25299.37.2, and 25355.8 to the Health and Safety Code, and to add Section 13307.1 to the Water Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 681, Machado. Environmental remediation: closure.

(1) Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, requires the Department of Toxic Substances Control or a California regional water quality control board to prepare or approve remedial action plans, which specify, among other things, removal and remedial actions selected for the cleanup of all hazardous substance release sites identified and categorized pursuant to a specified procedure. The department and the State Water Resources Control Board are required to concurrently establish consistent policies and procedures to be used by each agency in overseeing the investigation and taking of removal and remedial actions at hazardous substance release sites, in the case of the department, and in overseeing the investigation of, and cleaning up or abating the effects of, discharges of a hazardous substance, in the case of the state board.

Under existing law, the state board is authorized to develop and implement a local oversight program for the abatement of, and oversight of the abatement of, unauthorized releases of hazardous substances from underground storage tanks by local agencies.

Existing law specifies procedures for the taking of corrective action to unauthorized releases of petroleum from underground storage tanks.

This bill would prohibit considering cleanup or site closure proposals from the primary or active responsible party or discharger, as the case may be, the issuance of a closure letter, or a determination that no further action is required by a local agency with respect to an



unauthorized release of hazardous substances from an underground storage tank, a local agency, a regional board, or the state board with regard to an unauthorized release of petroleum from an underground storage tank, or the state board or a regional board with respect to a site subject to a cleanup or abatement order, unless all current record owners of fee title to the site of the proposed action have been notified of the proposed action by the local agency, state board, or regional board, as the case may be.

The bill would require the above described entities to take all reasonable steps necessary to accommodate responsible landowner participation in the cleanup or site closure process and to consider all input and recommendations from any responsible landowner wishing to participate.

The bill would prohibit the department, upon receiving a specified request, from overseeing the preparation of, or reviewing, a preliminary endangerment assessment for property if action may be necessary to address a release or threatened release of a hazardous substance and from issuing a letter stating that no further action is necessary with regard to property unless the person requesting department action provides the department with specified information. The bill would prescribe related matters.

Since the bill would require local agencies to take specified actions with regard to unauthorized releases, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 25297.15 is added to the Health and Safety Code, to read:

25297.15. (a) (1) The local agency shall not consider cleanup or site closure proposals from the primary or active responsible party, issue a closure letter, or make a determination that no further action is required with respect to a site upon which there was an unauthorized release of hazardous substances from an underground storage tank subject to this chapter unless all current record owners of fee title to the site of the proposed action have been notified of the proposed action by the primary or active responsible party.

(2) Notwithstanding subdivision (g) of Section 25297.1, the local agency shall also notify the primary or active responsible party of their responsibility under this subdivision.

(3) The primary or active responsible party shall certify to the local agency in writing that the notification requirement in this subdivision has been met and provide a complete mailing list of all record fee title owners to the local agency.

(b) The local agency shall take all reasonable steps necessary to accommodate responsible landowner participation in the cleanup or site closure process and shall consider all input and recommendations from any responsible landowner wishing to participate.

SEC. 2. Section 25299.37.2 is added to the Health and Safety Code, to read:

25299.37.2. (a) The local agency, the board, or a regional board shall not consider corrective action or site closure proposals from the primary or active responsible party, issue a closure letter, or make a determination that no further corrective action is required with respect to a site upon which there was an unauthorized release of petroleum from an underground storage tank subject to this chapter unless all current record owners of fee title to the site of the proposed action have been notified of the proposed action by the local agency, board, or regional board.

(b) The local agency, board, or regional board shall take all reasonable steps necessary to accommodate responsible landowner participation in the cleanup or site



closure process and shall consider all input and recommendations from any responsible landowner wishing to participate.

SEC. 3. Section 25355.8 is added to the Health and Safety Code, to read:

25355.8. (a) The department shall not agree to oversee the preparation of, or to review, a preliminary endangerment assessment for property if action is, or may be, necessary to address a release or threatened release of a hazardous substance, and the department shall not issue a letter stating that no further action is necessary with regard to property, unless the person requesting the department action does either of the following:

(1) Provides the department with all of the following:

(A) Proof of the identity of all current record owners of fee title to the property and their mailing addresses.

(B) Written evidence that the owners of record have been sent a notice that describes the actions completed or proposed by the requesting person.

(C) An acknowledgment of the receipt of the notice required in subparagraph (B), from the property owners or proof that the requesting person has made reasonable efforts to deliver the notice to the property owner and was unable to do so.

(2) Proof of the identity of all current record owners of fee title to the property and proof that the requesting person has made reasonable efforts to locate the property owners and was unable to do so.

(b) The department shall take all reasonable steps necessary to accommodate property owner participation in the site remediation process and shall consider all input and recommendations received from the owner of property which is the subject of the proposed action.

(c) This section only applies to instances where a person requests the department to oversee the preparation of, or to review, a preliminary endangerment assessment, or requests the department to issue a letter stating that no further action is necessary with regard to property. Nothing in this section imposes a condition

upon, limits, or impacts in any way, the department's authority to compel any potentially responsible party to take any action in response to a release or threatened release of a hazardous substance or to recover costs incurred from any potentially responsible party.

SEC. 4. Section 13307.1 is added to the Water Code, to read:

13307.1. (a) The state board and the regional boards shall not consider cleanup or site closure proposals from the primary or active responsible discharger, issue a closure letter, or make a determination that no further action is required with respect to a site subject to a cleanup or abatement order pursuant to Section 13304, unless all current record owners of fee title to the site of the proposed action have been notified of the proposed action by the state board or regional board.

(b) The state board and regional boards shall take all reasonable steps necessary to accommodate responsible landowner participation in the cleanup or site closure process and shall consider all input and recommendations from any responsible landowner wishing to participate.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved _____, 1998

Governor

